



**Billing Code 4310-55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-R8-ES-2013-N209]; [FF08E00000-FXES11120800000F2-123-F2]**

**Habitat Conservation Plan for South Sacramento County, California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent, request for comments, and notice of public scoping meetings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), intend to gather additional information and to prepare, in coordination with the County of Sacramento, California, a joint environmental impact statement and environmental impact report (EIS/EIR) under the National Environmental Policy Act and the California Environmental Quality Act for the proposed South Sacramento Habitat Conservation Plan (HCP). The draft EIS/EIR will evaluate the impacts of several alternatives related to the proposed issuance of Endangered Species Act permits to eight permit applicants in south Sacramento County, California. The permit applicants intend to apply for either a 30-year or a 50-year permit from the Service that would authorize the incidental take resulting from implementation or approval of covered activities, including various kinds of development projects. We also announce public scoping meetings and the opening of a public comment period. We request data, comments, new information, or suggestions

from other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

**DATES:** To ensure consideration, please send your written comments by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

We will hold two public scoping meetings at different locations in the plan area (see *Public Meetings* under **SUPPLEMENTARY INFORMATION** for dates, times, and locations). In addition to this notice, we will also announce the public scoping meetings in local news media and on the Internet at <http://www.fws.gov/sacramento>.

**ADDRESSES:** Please address written comments to Nina Bicknese, Senior Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Mike Thomas, Chief, Conservation Planning Division, or Eric Tattersall, Deputy Assistant Field Supervisor, at the address shown above (see **ADDRESSES**) or at (916) 414-6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** We intend to gather additional information and to prepare, in coordination with the County of Sacramento, California, a joint

environmental impact statement and environmental impact report (EIS/EIR) under the National Environmental Policy Act and the California Environmental Quality Act for the proposed South Sacramento Habitat Conservation Plan (HCP). This notice revises information on the proposed HCP previously published on June 10, 2008 (73 FR 32729). The draft EIS/EIR will evaluate the impacts of several alternatives related to the proposed issuance of Endangered Species Act permits to eight permit applicants (the County of Sacramento, City of Elk Grove, City of Rancho Cordova, City of Galt, the Capital Southeast Connector Joint Powers Authority, the Sacramento Regional County Sanitation District, the Sacramento County Water Agency, and a South Sacramento Habitat Conservation Plan Joint Powers Authority) for activities they would conduct or approve within a proposed 374,000-acre plan area located in south Sacramento County, California.

The permit applicants intend to apply for either a 30-year or a 50-year permit from the Service that would authorize the incidental take of 22 animal species. Incidental take would result from implementation or approval of covered activities, including private development projects, transportation facilities, surface and groundwater delivery facilities, water treatment facilities, solid waste sanitation facilities, public facilities, recreation facilities, energy utility facilities, aggregate mining activities, and future preserve land-management activities. We also announce public scoping meetings and the opening of a public comment period. We request data, comments, new information, or suggestions from other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

We publish this notice in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Act), and in compliance with the California Environmental Quality Act (CEQA). We intend to prepare a joint draft EIS/EIR to evaluate the impacts of several alternatives related to the potential issuance of an incidental take permit (ITP) to the permit applicants, as well as impacts of the implementation of the supporting proposed habitat conservation plan (HCP).

The permit applicants propose to prepare the South Sacramento Habitat Conservation Plan as part of their application for an ITP under section 10(a)(1)(B) of the Act. The proposed HCP will include measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential proposed taking of federally listed species to be covered by the ITP, and the habitats upon which they depend. The covered activities and projects proposed by the HCP would disturb a maximum total of 42,243 acres within the plan area and would include the construction of residential and commercial development projects, improvements to existing transportation facilities, new transportation facilities (including the proposed Capital Southeast Connector highway), new surface water and groundwater delivery facilities, water treatment facilities, solid waste sanitation facilities, public facilities (including fire stations, police stations, hospitals, schools, community centers, cemeteries, and administration centers), indoor

and outdoor recreation facilities, energy utility facilities, aggregate mining activities, and future habitat-management activities.

The plan area, the area in which all impacts would be evaluated and all conservation actions will be implemented, is approximately 374,000 acres within unincorporated south Sacramento County and within the cities of Rancho Cordova, Elk Grove, and Galt. The approximate geographical boundary of the plan area would be the area bound by U.S. Highway 50 in the north, the San Joaquin County line to the south, the Sacramento River levee and County Road J11 to the west, and the Sacramento County line with El Dorado and Amador counties to the east. The 374,000-acre plan area would include a 123,000-acre urban development area (UDA) where most ground-disturbing development, infrastructure activities, and projects would occur. The UDA corresponds to land within the County's urban services boundary (USB); and to land within the city limits of Rancho Cordova, Elk Grove, and Galt; land within Elk Grove's proposed sphere of influence; and land within Galt's adopted sphere of influence.

Almost all ground disturbance and incidental take of federally listed endangered and threatened species would occur on approximately 40,000 acres within the UDA. A limited amount of infrastructure development, such as planned road widening projects and recycled water conveyance pipelines, would disturb or remove approximately 2,443 acres of native and naturalized landcovers outside the UDA. In addition, the HCP would include an aquatic resource program that would avoid, minimize, or fully mitigate potential covered activity impacts to existing aquatic resources within the plan area, and would facilitate the U.S. Army Corps of Engineers' development of a process for permit applicant compliance with the Clean Water Act (33 U.S.C. 1251 *et seq.*). The permit

applicants also propose to permanently preserve or restore approximately 8,950 acres of the UDA and preserve approximately 40,980 acres outside the UDA, following criteria that would expand the size of existing preserves and create linkages and corridors between existing preserves. In total, the HCP proposes to permanently preserve or restore 49,930 acres of native and naturalized landcovers within the plan area boundary. When combined with the existing preserve lands, the HCP would result in a large and interconnected 113,623-acre habitat reserve system within the 374,000-acre plan area.

### **Background Information**

Section 9 of the Act and Federal regulations prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. The term “harass” is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). The term “harm” is defined in the regulations as significant habitat modification or degradation that results in death or injury of listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

However, under specified circumstances, the Service may issue permits that allow the take of federally listed species, provided that the take is incidental to, but not the

purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened species can be found at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicants will develop a proposed HCP and ensure that adequate funding for the HCP will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Thus, the purpose of issuing ITPs is to allow the permit applicants, under their respective authorities, to authorize new development and infrastructure, while conserving covered species and their habitats. Implementation of a regional habitat conservation plan, rather than a species-by-species or project-by-project approach, would enhance benefits of conservation measures for covered species and would eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the applicants' proposed plan area. The Service expects that the permit applicants will request ITP coverage for a period of 30 to 50 years.

## **Alternatives in the Draft Environmental Impact Statement**

The proposed action alternative presented in the draft EIS/EIR will be compared to a no-action alternative. The no-action alternative represents estimated future conditions to which the proposed action's estimated conditions can be compared. Other action alternatives considered, including their potential impacts, will also be addressed in the draft EIS/EIR and compared to a no-action condition.

### *No-Action Alternative*

Because the proposed covered activities would provide needed regional infrastructure and economic development, these types of activities would occur within the plan area regardless of whether a 10(a)(1)(B) ITP is requested or issued. Although future activities would be similar to the covered activities proposed by the HCP, not all activities would necessitate an incidental take permit or consultation with the Service. Under the no action alternative, the permit applicants could implement a covered activity that fully avoids impacts to protected species and their habitats. Where potential impacts to federally protected species could not be avoided, the permit applicants could minimize and mitigate their impacts through individual formal or informal consultations with the Service. When applicable, the permit applicants would potentially seek individual section 10(a)(1)(B) ITPs on a project-by-project basis. Under the no-action alternative, the permit applicants may also satisfy the requirement of the Clean Water Act's sections 404 and 401, the California Fish and Game code section 1600, and the Porter-Cologne Act, and other applicable law, on a project-by-project basis. Thus, under the no-action



alternative, various permit applicants would likely need to develop and file numerous separate permit applications over the 30-to-50-year project period. This activity-by-activity approach could be more time consuming and less efficient and could result in smaller and fragmented mitigation areas.

### *Proposed Action Alternative*

The proposed action alternative is the issuance of an ITP for the take of covered species, caused by covered activities within the proposed plan area, for a period of 30 to 50 years. The proposed action HCP, developed and implemented by the permit applicants, must meet the requirements of section 10(a)(2)(A) of the Act by providing measures to minimize and mitigate the effects of the potential incidental take of covered species to the maximum extent practicable. The proposed HCP allows for a comprehensive mitigation approach for unavoidable impacts, and reduces permit processing times and efforts for the permit applicants and the Service.

Covered activities under the proposed HCP are otherwise lawful activities that applicants carry out consistent with all HCP requirements, including, but not limited to:

1. Construction of private development projects within the UDA (e.g., single- and multi-family homes, residential subdivisions, commercial or industrial projects, offices, and park infrastructure);
2. Installation and/or maintenance of utility infrastructure within the UDA (e.g., transmission or distribution lines and facilities related to electric, telecommunication, natural gas, and other types of energy utilities);

3. Installation and/or maintenance of surface and groundwater delivery facilities within the UDA;
4. Construction, maintenance, and/or improvement of water treatment facilities within the UDA;
5. Construction, maintenance, and/or improvement of solid waste sanitation facilities within the UDA;
6. Construction, use, and maintenance of public facilities (e.g., fire stations, police stations, schools, hospitals, community centers, cemeteries, and administration centers) within the UDA;
7. Construction, use, or maintenance of other public infrastructure, including indoor and outdoor recreation facilities, within the UDA;
8. Excavation, use, maintenance, and/or expansion of quarries, gravel mining, or other aggregate mining activities within the UDA;
9. Construction, maintenance, and/or improvement of new roads, bridges, and other transportation infrastructure facilities outside the UDA and within the UDA, including the proposed Southeast Connector highway;
10. Construction, maintenance, and/or improvement of recycled water conveyance pipelines and outside the UDA and within the UDA; and
11. Maintenance and land management activities on conservation lands outside the UDA and within the UDA.

We anticipate that the following 30 species of plants and animals, including seven federally listed threatened (T) or endangered (E) species, will be included as covered

species in the permit applicants' proposed HCP:

Mid-valley fairy shrimp (*Branchinecta mesovallensis*)

Ricksecker's water scavenger beetle (*Hydrochara rickseckeri*)

Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (T)

Vernal pool fairy shrimp (*Branchinecta lynchi*) (E)

Vernal pool tadpole shrimp (*Lepidurus packardii*) (E)

California tiger salamander, central California distinct population segment  
(*Ambystoma californiense*) (T)

Western spadefoot toad (*Scaphiopus hammondi*)

Giant garter snake (*Thamnophis gigas*) (T)

Western pond turtle (*Actinemys marmorata marmorata* and *A. m. pallida*) (two  
subspecies)

American badger (*Taxidea taxus*)

Pallid bat (*Antrozous pallidus*)

Western red bat (*Lasiurus blossevillei*)

Yuma myotis bat (*Myotis yumanensis*)

White-tailed kite (*Elanus leucurus*)

Cooper's hawk (*Accipiter cooperii*)

Ferruginous hawk (*Buteo regalis*)

Greater sandhill crane (*Grus canadensis tabida*)

Loggerhead shrike (*Lanius ludovicianus*)

Northern harrier (*Circus cyaneus*)

Swainson's hawk (*Buteo swainsoni*)

Tricolored blackbird (*Agelaius tricolor*)

Western burrowing owl (*Athene cunicularia hypugaea*)

Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*)

Boggs Lake hedge hyssop (*Gratiola heterosepala*)

Dwarf downingia (*Downingia pusilla*)

Legenere (*Legenere limosa*)

Pincushion navarretia (*Navarretia myersii*)

Sacramento Orcutt grass (*Orcuttia viscida*) (T)

Slender Orcutt grass (*Orcuttia tenuis*) (T)

Sanford's arrowhead (*Sagittaria sanfordii*)

The permit applicants seek incidental take authorization for all applicable covered species. Candidate and federally listed species that are not likely to be taken by the covered activities, and therefore not covered by the proposed ITP, may also be addressed in the proposed HCP, to explain why the permit applicants believe these species will not be taken.

### **Environmental Review and Next Steps**

The Service will conduct an environmental review to analyze the proposed action, along with other alternatives evaluated, and the associated impacts of each. The draft EIS/EIR will be the basis for the impact evaluation for each covered species. The draft EIS/EIR is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the proposed action and other alternatives on other

resources, such as soils, geology, water quality, agriculture, vegetation, wetlands, wildlife, cultural resources, transportation, air quality, land use, recreation, water use, local economy, and environmental justice.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EIS/EIR and on the permit applications, which will include the proposed HCP. We anticipate that the draft EIS/EIR and proposed HCP will be completed and available to the public in March or April 2014.

### **Public Comments**

We request data, comments, new information, or suggestions from other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider these comments in developing an EIS/EIR and in the development of a South Sacramento Habitat Conservation Plan and incidental take permit. We particularly seek comments on the following:

1. Biological information concerning the proposed covered species;
2. Relevant data concerning the proposed covered species;
3. Additional information concerning the range, distribution, population size, and population trends of the proposed covered species;
4. Current or planned activities in the subject area and their possible impacts on the proposed covered species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns that are

required to be considered in project planning by the National Historic Preservation Act (16 U.S.C. 470 *et seq.*); and

6. Identification of any other environmental issues that should be considered with regard to the proposed development and the permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section.

Comments and materials we receive on this notice will be available for public inspection by appointment, during normal business hours, at our office (see **FOR FURTHER INFORMATION CONTACT**).

#### **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### **Public Scoping Meetings**

The purpose of scoping meetings is to provide the public with a general understanding on the background of the proposed HCP and activities it would cover, alternative proposals under consideration for the draft EIS/EIR, the Service's role, and steps to be taken to develop the draft EIS/EIR for the proposed HCP. Two public scoping meetings will be held:

1. Wednesday, November 20, from 6:30 p.m. to 8:30 p.m., at the Anthony Pescetti Community Room, Galt Police Facility, 455 Industrial Drive, Galt, CA 95632.
2. Thursday November 21, from 2:00 p.m. to 4:00 p.m., at the Governor's Office of Planning and Research, Large Conference Room 202, 2nd Floor, 1400 Tenth Street, Sacramento, California, 95814.

The meeting will include a 1-hour open house prior to the formal scoping meeting. The open house will provide an opportunity to learn about the proposed action, permit area, and species covered. The open house will be followed by a presentation of the proposed action, a summary of the NEPA process, and comments from the public. The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and scope of alternatives for the Service to consider when drafting the EIS/EIR. Written comments will be accepted at the meetings. Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the draft EIS/EIR and proposed HCP are complete and made available for review, there will be additional opportunity for public comment on the content of these documents during a 90-day draft EIS/EIR public comment period.

### **Meeting Location Accommodations**

Please note that the meeting locations are accessible to wheelchair users. If you require additional accommodations, please notify us at least 1 week in advance of the meeting (see **FOR FURTHER INFORMATION CONTACT**).

### **Authority**

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and by NEPA regulations (40 CFR 1501.7, 1506.6, and 1508.22).

Dated: October 29, 2013.

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Alexandra Pitts  
Deputy Regional Director,  
Pacific Southwest Region,  
Sacramento, California.